

Message Text

CONFIDENTIAL

PAGE 01 NICOSI 01531 01 OF 03 101343Z
ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 SSO-00 NSCE-00 USIE-00
INRE-00 CIAE-00 DODE-00 PM-04 H-01 INR-07 L-03
NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 SY-05
FBIE-00 A-01 /058 W
-----101436Z 018566 /43

O R 101300Z JUN 77
FM AMEMBASSY NICOSIA
TO SECSTATE WASHDC IMMEDIATE 5991
INFO AMEMBASSY ANKARA
AMEMBASSY ATHENS
AMEMBASSY LONDON

C O N F I D E N T I A L SECTION 1 OF 3 NICOSIA 1531

E.O. 11652: GDS
TAGS: PINS, CY, US
SUBJECT: DAVIES TRIAL

SUMMARY: THIS IS THE NINTH CHRONOLOGICAL REPORT ON TRIAL HIGHLIGHTS NOT OTHERWISE REPORTED AND COVERS THE NICOSIA ASSIZES COURT HEARING ON JUNE 3, WHEN THE HOMICIDE CHARGES AGAINST KTIMATIAS AND LEFTIS WERE DISMISSED. THE COURT REJECTED STYLIANOU'S TESTIMONY CONCERNING THE PRESENCE OF THE ACCUSED IN THE BUILDING UNDER CONSTRUCTION BECAUSE STYLIANOU HAD GIVEN CYPOL THREE STATEMENTS, CITING THREE POSSIBLE LOCATIONS WITHIN THE BUILDING WHERE HE HAD SEEN THEM. IT REJECTED ALL TESTIMONY CONCERNING THE TIMING OF THE FATAL SHOTS BECAUSE OF THE CONFUSING AND CONFLICTING RECOLLECTIONS OF MANY WITNESSES (AT LEAST NINE WERE CITED). IT REJECTED THE EXPERT TESTIMONY OF A SENIOR SURVEYOR AND A POLICE BALLISTICS EXPERT CONCERNING THE PLACE FROM WHERE THE FATAL SHOTS WERE FIRED ON THE GROUNDS THAT THEIR INFORMATION WAS NOT SUFFICIENTLY SPECIFIC. IT REJECTED THE "CONSPIRACY THEORY," OR CONCERTED ACTION PREMISE, AS GROUNDS FOR PROSECUTION AS UNPROVEN IN ALL MAJOR REQUIREMENTS. THE
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 NICOSI 01531 01 OF 03 101343Z

COURT CONCLUDED THERE WAS NO EVIDENCE THAT THE TWO ACCUSED HAD FIRED THE BURSTS OF SHOTS THAT CAUSED THE KILLINGS, OR (SIC) HAD FIRED ANY OTHER SHOTS. OUR COMMENTS APPEAR AT THE END OF THE REPORT. END SUMMARY.

1. ON JUNE 8 WE OBTAINED A COPY OF THE ASSIZES COURT RULING MADE ON JUNE 3, WHICH DISMISSED THE HOMICIDE

CHARGES AGAINST KTIMATIAS AND LEFTIS. THE SIGNIFICANT FINDINGS ARE REPORTED BELOW, ALONG WITH THE GIST OF SOME OF THE MORE IMPORTANT LEGAL PRECEDENTS CITED.

A. BEFORE AN ACCUSED PERSON MAY BE CALLED UPON TO MAKE HIS DEFENSE THE COURT MUST DECIDE THAT THE EVIDENCE IT HAS RECEIVED IS SUCH THAT A REASONABLE TRIBUNAL MIGHT CONVICT. THE PROSECUTION HAS ADMITTED THERE IS NO EVIDENCE THAT THE FATAL SHOTS WERE FIRED FROM THE GUNS CARRIED BY THE TWO ACCUSED, YET IT CLAIMS THE FATAL SHOOTING WAS AN EVENTUALITY OF THE CONCERTED VIOLENT ATTACK AGAINST THE EMBASSY, TACITLY ACCEPTED BY THE TWO ACCUSED WHO PARTICIPATED WITH GUNS IN THE VIOLENT ATTACK.

B. IN ORDER TO CONNECT THE TWO ACCUSED WITH EACH OTHER AND WITH THE CRIMES CHARGED, THE PROSECUTION CALLED A NUMBER OF WITNESSES, BUT ONLY ONE WITNESS (STELIOS STYLIANOU) TESTIFIED TO THE CONNECTION BETWEEN THE TWO ACCUSED. STYLIANOU SAW KTIMATIAS NEAR HIS FIRE ENGINE WITH AN AUTOMATIC WEAPON AND AN EXTRA MAGAZINE. HE ALSO SAW LEFTIS NEARBY, IN MILITARY CLOTHING AND CARRYING A WEAPON. THREE OR FOUR MINUTES LATER THEY WASHED THEIR FACES AT HIS FIRE ENGINE AND ENTERED THE ALPAN BUILDING (THE BUILDING UNDER CONSTRUCTION) TOGETHER. THREE OR FOUR MINUTES LATER STYLIANOU HEARD BURSTS OF SHOTS, LOOKED UP AT THE ALPAN BUILDING AND SAW THE TWO ACCUSED "AT A WINDOW LOWER THAN THE SIXTH BUT NOT HIGHER THAN IT." HE DID NOT SEE THEIR WEAPONS.

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 NICOSI 01531 01 OF 03 101343Z

C. ON CROSS-EXAMINATION STYLIANOU WAS REMINDED HE HAD FURNISHED CYPOL STATEMENTS ON DECEMBER 8, AUGUST 4, AND JULY 20, 1976. THE THREE STATEMENTS DIFFERED REGARDING WHERE HE HAD SEEN THE TWO ACCUSED IN THE ALPAN BUILDING.

D. THE COURT, THEREFORE, REJECTS STYLIANOU'S STATEMENT REGARDING THE WHEREABOUTS OF THE TWO ACCUSED IN THE ALPAN BUILDING AS OF NO EVIDENTIAL VALUE. FURTHER, HIS THREE STATEMENTS DO NOT CONNECT THE TWO ACCUSED WITH ANY OF THE PLACES FROM WHICH THE PROSECUTION SUGGESTS THE SHOTS WERE FIRED AGAINST THE EMBASSY BUILDING.

E. THE COURT NOTED THAT STYLIANOU SAID HE HAD HEARD SHOTS COMING FROM THE ALPAN BUILDING. THE POLICE RECOVERED 67 CARTRIDGE CASINGS; ONLY ONE WAS FOUND ON THE SCAFFOLDING AND THAT WAS BELOW THE THIRD-FLOOR STAIRWELL WINDOW. NONE WERE FOUND IN THE ALPAN BUILDING.

2. THE COURT ADDRESSED THE TIMING OF THE FATAL SHOTS BY NOTING THE EVIDENCE HAD BEEN VERY CONFUSING. IT CITED THESE EXAMPLES:

A. STYLIANOU REMEMBERED HEARING THE BURSTS OF SHOTS AFTER 1300 HOURS BUT BEFORE 1310.

B. THE EMBASSY EYE-WITNESS, STELLA CHARALEMBIDOU, SAID THE FATAL SHOTS WERE FIRED BETWEEN 1230 AND 1235 HOURS.

C. THE OTHER EMBASSY EYE-WITNESS, HARRIS EVANGELIDES, PLACED THE TIME AT BETWEEN 1205 AND 1210 HOURS.

D. DR. CHRISTODOULAKIS SAID THE AMBASSADOR'S BODY ARRIVED AT HIS CLINIC AT 1300 HOURS.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 NICOSI 01531 02 OF 03 101404Z
ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 SSO-00 NSCE-00 USIE-00
INRE-00 CIAE-00 DODE-00 PM-04 H-01 INR-07 L-03
NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 SY-05
FBIE-00 A-01 /058 W

-----101435Z 018822 /43

O R 101300Z JUN 77
FM AMEMBASSY NICOSIA
TO SECSTATE WASHDC IMMEDIATE 5992
INFO AMEMBASSY ANKARA
AMEMBASSY ATHENS
AMEMBASSY LONDON

C O N F I D E N T I A L SECTION 2 OF 3 NICOSIA 1531

E. POLICE CONSTABLE ANDREAS APOSTOLOU, WHO ACCOMPANIED THE AMBASSADOR'S BODY TO THE CLINIC, SAID THE FATAL SHOTS WERE FIRED AT ABOUT TEN MINUTES BEFORE NOON.

F. THE NICOSIA HOSPITAL AMBULANCE DRIVER SAID THE CASUALTY DEPARTMENT AT THE HOSPITAL ORDERED HIM TO THE SCENE AT 1220 HOURS. HE ARRIVED AT 1230 HOURS AND FOUND THE AMBASSADOR'S BODY HAD BEEN REMOVED TO THE NICOSIA CLINIC. HE WENT THERE AND TOOK THE BODY TO THE NICOSIA HOSPITAL.

G. INSPECTOR ANDREAS IERIDES SAID THE EMBASSY SECURITY OFFICER TOLD HIM TO CALL AN AMBULANCE. HE DID SO AND BELIEVED HE MADE THE CALL AT ABOUT 1330 TO 1400 HOURS.

H. FIRE BRIGADE CHIEF INSPECTOR ANASTASSIADES SAID HE WAS CALLED TO THE EMBASSY AT 1225 HOURS AND ARRIVED THERE ABOUT TEN MINUTES LATER. ABOUT TEN MORE MINUTES AFTER ARRIVING HE HEARD BURSTS OF SHOTS AND HEARD AN AMERICAN SHOUTING THAT THE AMBASSADOR WAS BADLY HURT. CONFIDENTIAL

CONFIDENTIAL

PAGE 02 NICOSI 01531 02 OF 03 101404Z

HE CALLED FOR AN AMBULANCE, THEN WATCHED THE AMBASSADOR BEING REMOVED TO THE NICOSIA CLINIC IN A POLICE LAND ROVER. THE TIME WAS BETWEEN 1250 AND 1255 HOURS.

I. A FIREMAN TESTIFIED HE HAD RECEIVED ANASTASSIADES' CALL AT 1255 HOURS AND LEFT FOR THE EMBASSY WITH AN AMBULANCE.

3. THE COURT STATED THAT FROM THE EVIDENCE OF THE ABOVE WITNESSES IT COULD NOT CONCLUDE THAT THE FATAL SHOTS WERE FIRED BETWEEN 1235 AND 1252 HOURS, AS THE PROSECUTION SUGGESTED. IT SAID THE EVIDENCE WAS VERY CONFUSING AND CONFLICTING AND COULD NOT BE RELIED ON TO DRAW A SAFE INFERENCE AS TO THE TIME THE KILLING TOOK PLACE. FURTHER, BECAUSE OF THIS THE COURT COULD NOT CONNECT THE PRESENCE OF THE TWO ACCUSED AT ONE OF THE ALPAN BUILDING WINDOWS WITH THE KILLINGS. THE COURT CONTINUED THAT THE PROSECUTION HAD PROVIDED NO OTHER EVIDENCE TO CONNECT THE KILLINGS WITH THE TWO ACCUSED OR TO CONNECT THE TWO ACCUSED WITH ANY UNKNOWN AND UNIDENTIFIED PERSONS WHO POSSIBLY COMMITTED THE KILLINGS.

4. THE COURT DISMISSED THE EVIDENCE PROVIDED BY THE TWO EXPERT WITNESSES, THE SENIOR SURVEYOR AND THE POLICE BALLISTICS EXPERT, WITH THE STATEMENT THAT THEIR PRESENTATION WAS NOT SUFFICIENTLY DOCUMENTED AS TO THE MEANINGS OF SPECIFIC LOCCATIONS THEY CITED TO BE OF VALUE AS ADMISSIBLE EVIDENCE. IT CLAIMED THE POLICE SKETCHES SHOWED THE POSITIONS WHERE THE BODIES FELL, NOT THE POSITIONS WHERE THE VICTIMS WERE STRUCK. FURTHER, THE SPECIFIC POINTS USED IN THE THEODOLITE MEASUREMENTS WERE NOT PROPERLY EXPLAINED AND WERE THEREFORE MEANINGLESS. THE COURT CONCLUDED THERE WAS NO EVIDENCE PLACING EITHER OF THE ACCUSED AT THE POINTS IDENTIFIED BY THE THEODOLITE MEASUREMENTS AS REPRESENTING THE PLACES FROM WHERE THE FATAL SHOTS HAD BEEN FIRED. CONFIDENTIAL

CONFIDENTIAL

PAGE 03 NICOSI 01531 02 OF 03 101404Z

5. THE COURT STATED THAT THE FOUR DEFORMED PROJECTILES DELIVERED CYPOL BY THE EMBASSY SECURITY OFFICER HAD NOT BEEN PROPERLY IDENTIFIED AS TO WHERE THEY WERE FOUND AND WERE THEREFORE OF NO SIGNIFICANT VALUE IN THE CASE.

6. THE COURT CITED EXTENSIVE LEGAL PRECEDENTS FOR ITS RULING ON SECTIONS 20 AND 21 OF THE CYPRUS CRIMINAL CODE (AN ACCUSED'S RESPONSIBILITY FOR OFFENSES RESULTING FROM ILLEGAL ACTS WHICH WERE PART OF THE COMMON DESIGN OF A CONCERTED ACTION). IT HELD THAT FOR THE PROSECUTION TO MAKE OUT A PRIMA-FACIE CASE SUFFICIENT TO REQUIRE THE ACCUSED TO BE CALLED UPON UNDER SECTIONS 20 AND 21, IT MUST ESTABLISH THAT THERE WAS A COMMON DESIGN OR PURPOSE TO COMMIT AN UNLAWFUL ACT; THE PARTICIPANTS HAD EXPRESSLY OR IMPLIEDLY AGREED TO PARTICIPATE IN IT; THE PARTICIPANTS DID NOT GO BEYOND THEIR AGREEMENT; EACH OF THE ACCUSED PARTICIPATED IN THE UNLAWFUL EVENTS; AND THE ROLE OF EACH PARTICIPANT COULD BE IDENTIFIED.

7. THE COURT FOUND THAT THE PROSECUTION HAD FAILED TO MAKE OUT A CASE UNDER SECTIONS 20 AND 21 IN THAT:

A. THEY FAILED TO PRODUCE EVIDENCE WHICH CONNECTED THE TWO ACCUSED WITH THE PLACE FROM WHERE THE FATAL SHOTS WERE FIRED;

B. THEY FAILED TO SHOW WHERE THE TWO ACCUSED WERE WHEN THE FATAL SHOTS WERE FIRED;

C. THERE IS NO EVIDENCE THE TWO ACCUSED WERE AT ANY TIME IN THE COMPANY OF ANY UNKNOWN GUNMEN INVOLVED IN THE KILLINGS;

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 NICOSI 01531 03 OF 03 101425Z
ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 SSO-00 NSCE-00 USIE-00
INRE-00 CIAE-00 DODE-00 PM-04 H-01 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 SY-05

FBIE-00 A-01 /058 W

-----101434Z 019182 /43

O R 101300Z JUN 77

FM AMEMBASSY NICOSIA

TO SECSTATE WASHDC IMMEDIATE 5993

INFO AMEMBASSY ANKARA

AMEMBASSY ATHENS

AMEMBASSY LONDON

C O N F I D E N T I A L SECTION 3 OF 3 NICOSIA 1531

D. FURTHER, THERE IS NO EVIDENCE THAT THE TWO ACCUSED IN ANY WAY PARTICIPATED IN FIRING THE BURSTS OF SHOTS OR (SIC) ANY OTHER SHOTS.

8. THE COURT THEN DISMISSED THE HOMICIDE COUNTS AND RULED THE DEFENDANTS NEED NOT OFFER A DEFENSE UNDER SECTIONS 20 AND 21 (CHAPTER 154) OF THE CYPRUS CRIMINAL CODE. THE COURT RECONVENES ON JUNE 13 TO HEAR THE DEFENSES OF THE ACCUSED ON THE LESSER CHARGES OF RIOTING, CAUSING DAMAGE, AND ILLEGAL POSSESSION/USE OF WEAPONS.

9. COMMENT: THE COURT'S DECISION REPRESENTS AN ALMOST TOTAL VICTORY FOR THE DEFENSE. THE PROSECUTION HAS ADVISED PHERSON THEY WERE SHOCKED BY THE RULINGS. THEIR RESPONSE IS UNDERSTANDABLE. AS WE SEE IT:

A. THE COURT DISCOUNTED COMPLETELY THE ADMISSIONS OF LOIZOU SAVVA, AND HIS SUBSEQUENT CONVICTION, WHICH WAS BASED SOLELY ON STYLIANOU'S TESTIMONY. CYPOL'S EFFORTS TO GET AT THE TRUTH REGARDING SAVVA, KTIMATIAS AND LEFTIS RESULTED IN ITS OBTAINING THREE STATEMENTS FROM STYLIANOU. CONFIDENTIAL

CONFIDENTIAL

PAGE 02 NICOSI 01531 03 OF 03 101425Z

ALL WERE SOMEWHAT AT VARIANCE, WHICH IS NOT SURPRISING, SINCE HE WAS RECOUNTING EVENTS OF MORE THAN TWO YEARS BEFORE. YET ALL STATEMENTS WERE SUMMARILY DISMISSED BY THE COURT AS CONFLICTING IN NATURE.

B. THE COURT'S REJECTION OF ALL TESTIMONY REGARDING THE TIMING OF THE FATAL SHOTS, SINCE ALL WITNESSES WERE OF A DIFFERENT OPINION, IS EVEN MORE DIFFICULT TO ACCEPT. RELIABLE RECORDS WERE IGNORED, SUCH AS THOSE OF DR. CHRISTODOULAKIS, WHO TESTIFIED THE AMBASSADOR WAS PRONOUNCED DEAD AT HIS CLINIC AT 1300 HOURS. THE ACCURATE TESTIMONY DERIVED FROM FIRE BRIGADE RECORDS WAS ALSO DISMISSED OUT OF HAND.

C. THE REJECTION OF THE EXPERT WITNESS TESTIMONY,

ESPECIALLY THAT DRAWN FROM THE THEODOLITE SITING AND THE POLICE SKETCHES, COULD ALMOST BE DESCRIBED AS PETTY QUIBBLING ON THE PART OF THE COURT. THE RULINGS IN THIS AREA EFFECTIVELY DISPARAGED THE EFFORTS OF THE PROSECUTION. IT REMAINS TO BE SEEN WHETHER THE PROSECUTION WILL RETAIN ITS AGGRESSIVENESS AND MOTIVATION WHEN THE TRIAL RESUMES.

D. MORE IMPORTANTLY, HOWEVER, AND MOST DISTURBING, IS WHAT WE SEE AS A COMPLETELY ARBITRARY RULING THAT THERE WAS NO EVIDENCE THAT THE TWO ACCUSED HAD IN ANY WAY BEEN INVOLVED IN FIRING THE BURSTS OF SHOTS (WHICH CAUSED THE KILLINGS) OR (SIC) IN FIRING ANY OTHER SHOTS.

E. WE ARE LEFT WITH THE CONCLUSION THAT JUSTICE HAS BEEN POORLY SERVED BY THESE RULING ON THE MAJOR CHARGES BY THE ASSIZES COURT. BASED ON THE RULINGS OF JUNE 3, WE SEE NO REASON TO BE HOPEFUL THAT ANY CONVICTIONS ON THE LESSER CHARGES WILL RESULT IN SENTENCES THAT COULD BE REGARDED AS APPROPRIATE OR AS A DETERRENT TO ANY TERRORIST-INSPIRED OR OTHER ACTS OF VIOLENCE AGAINST

CONFIDENTIAL

PAGE 03 NICOSI 01531 03 OF 03 101425Z

AMERICAN OFFICIALS.

10. EMBASSY'S LEGAL COUNSEL POLYVIOU HAS ADVISED AMBASSADOR THAT MAKARIOS IS "VERY ANGRY" ABOUT ASSIZES COURT JUNE 3 RULING. ACCORDING TO POLYVIOU, ARCHBISHOP FEELS JUDGES SHOULD HAVE HELD ANY RULING UNTIL END OF TRIAL AND THAT RULING OF JUNE 3 WHICH FOLLOWED COMPLETION OF PROSECUTION'S CASE HAS PREJUDICED BALANCE OF TRIAL.
CRAWFORD

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PRESS COMMENTS, TEXT, MURDER, COURT PROCEEDINGS, TRIALS
Control Number: n/a
Copy: SINGLE
Sent Date: 10-Jun-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977NICOSI01531
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770207-1060
Format: TEL
From: NICOSIA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770669/aaaacihu.tel
Line Count: 368
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: d41e667f-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 26-Jan-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2195743
Secure: OPEN
Status: NATIVE
Subject: DAVIES TRIAL SUMMARY: THIS IS THE NINTH CHRONOLOGICAL REPORT ON TRIAL HIGHLIGHTS NOT OTHERWISE REPORTED AND COVERS THE N
TAGS: PINS, CY, US, (DAVIES, RODGER P)
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/d41e667f-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009